

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Conway	Team: Team # 6	CCRB Case #: 201403428	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/07/2014 4:30 PM	Location of Incident: New Lots Avenue Station, 3 train platform	Precinct: 75	18 Mo. SOL 10/7/2015	EO SOL 10/7/2015	
Date/Time CV Reported Thu, 04/10/2014 1:35 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/10/2014 1:35 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Henry Daverin	03631	945645	PBBN
2. An officer			PBBN
3. POM Sean Keegan	12338	954994	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Yaphet Harper	20160	922480	TB BKTF
2. POF Camiel John	06656	948547	TB BKTF
3. POM Samuel Hui	28856	953978	PBBN
4. POM Erik Moreno	08278	939074	075 PCT
5. POM John Diaz	03864	948884	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B.SGT Henry Daverin	Discourtesy: Sgt. Henry Daverin spoke discourteously to § 87(2)(b)	
C.SGT Henry Daverin	Abuse: Sgt. Henry Daverin authorized the stop of § 87(2)(b)	
D.POM Sean Keegan	Abuse: PO Sean Keegan threatened to arrest § 87(2)(b)	

Case Summary

On April 10, 2014, § 87(2)(b) filed this complaint with the CCRB by phone on behalf of her juvenile daughters, § 87(2)(b) and § 87(2)(b). § 87(2)(b) did not witness the incident. On April 7, 2014, a fight between youths broke out on the platform of the New Lots Avenue IRT station in Brooklyn. A 10-13 was called, and numerous officers responded to the scene, resulting in several arrests. Officers of the 75th Precinct arrested § 87(2)(b) and handcuffed § 87(2)(b) during this incident. The following allegations resulted:

Allegation A—Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Allegation B—Discourtesy: Sgt. Henry Daverin spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Allegation C—Abuse of Authority: Sgt. Henry Daverin authorized the stop of

§ 87(2)(b)

§ 87(2)(g)

Allegation D—Abuse of Authority: PO Sean Keegan threatened to arrest § 87(2)(b)

§ 87(2)(g)

As this case involved an arrest, it was not eligible for mediation.

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) on the incident date. She is a black female who stands at 5'6 and weighs 105 pounds with black hair and brown eyes. § 87(2)(b)

CCRB Testimony

On April 16, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 6a-f).

Around 4:00 p.m. on Monday, April 7, 2014, § 87(2)(b) was walking in a group of 70 students from § 87(2)(b) to the New Lots Avenue IRT station. In particular, she was walking with her younger sister, § 87(2)(b) and her friends § 87(2)(b) and § 87(2)(b). Right before entering the train station, a group of young men assaulted § 87(2)(b) (identified as § 87(2)(b) and § 87(2)(b) and her

friends tried to break up the fight, and § 87(2)(b) picked § 87(2)(b) off of the ground and walked him up the stairs to the Manhattan-bound 3 train platform. Several minutes later, § 87(2)(b) s attackers walked onto the platform and assaulted him again, breaking one of his teeth. Immediately after, two uniformed police officers (identified by the investigation as PO Camiel John¹ and PO Yaphet Harper²) came over to break up the fight.

The station was very crowded with students and other commuters. PO John stopped two of the boys who had assaulted § 87(2)(b) and PO Harper spoke to § 87(2)(b) and told him he needed medical attention. Many more police officers responded to the scene, all of whom were uniformed. A new train pulled into the other side of the station (New Lots Avenue is the end of the line, so all trains go the same way) and most of the people who were on the crowded platform walked to the other side – except for § 87(2)(b) and her friends, the police, and the perpetrators. Officers crowded around § 87(2)(b) and the perpetrators in two large semicircles.

§ 87(2)(b) volunteered to go with § 87(2)(b) to the hospital, and she called her mother to tell her she would be going to § 87(2)(b). While she was doing so, she stood about seven to ten feet away from § 87(2)(b) behind a wall of uniformed officers; § 87(2)(b) § 87(2)(b) and § 87(2)(b) stood behind her. § 87(2)(b) did not try and push past any officers, nor did she curse, speak loudly on the phone, or criticize the officers' conduct. As soon as § 87(2)(b) hung up the phone, an unidentified officer, PO3³, walked past her, nudged her shoulder, and said, "Move the fuck out of my way." An officer who had already been on scene, identified as Sgt. Henry Daverin⁴, concurred with PO3 and said, "Go sit down and read a book somewhere." He was standing an arm's-length away from § 87(2)(b). At the time that this remark took place, PO Harper was shining a flashlight into § 87(2)(b) s eyes to check for damage, and asking what hospital he wanted to go to.

§ 87(2)(b) ignored the officers' comments, and spoke to § 87(2)(b) who wanted to use her phone to call her own mother. § 87(2)(b) felt that Sgt. Daverin believed she was making derogatory comments about the police, because Sgt. Daverin again turned to § 87(2)(b) and said, "Shut the fuck up." § 87(2)(b) asked who he was speaking to, and Sgt. Daverin said he was speaking to her. § 87(2)(b) replied, "Don't tell me to shut up. *You* shut the fuck up."

Sgt. Daverin and § 87(2)(b) then engaged in a verbal argument. Sgt. Daverin asked § 87(2)(b) if she saw his badge, because it meant that he had authority. § 87(2)(b) said she had a father, and Sgt. Daverin retorted that he had a badge. § 87(2)(b) replied, "Fuck your badge," and then backed away to speak to § 87(2)(b) and § 87(2)(b). Sgt. Daverin told § 87(2)(b) she was a "little girl" and made a remark about respect. § 87(2)(b) argued again with Sgt. Daverin, and then Sgt. Daverin said, "You're two inches away from going..." and then gave an order that she could not recall to PO Keegan⁵, who had walked behind § 87(2)(b).

PO Keegan grabbed § 87(2)(b) by the right arm from behind and put a handcuff on it. § 87(2)(b) passed her purse to § 87(2)(b) and then another officer assisted in handcuffing § 87(2)(b) s other arm. The officers gave no orders to § 87(2)(b) and § 87(2)(b) did not resist either verbally or physically. She complied with all instructions. § 87(2)(b)

¹ § 87(2)(b) described PO John as a uniformed brown-skinned female, tall, thick build, with her hair in a bun.

² § 87(2)(b) described PO Harper as a uniformed black male in his 40s, standing 6'1, average build, some facial hair.

³ § 87(2)(b) described PO3 as a uniformed white male in his late 30s, standing 6'1, with broad shoulders and blond stringy hair.

⁴ § 87(2)(b) described Sgt. Daverin as a uniformed white male with a stocky build, bald head, and white shirt.

⁵ § 87(2)(b) described PO Keegan as a uniformed male of an unknown race.

§ 87(2)(b) pleaded to the officers to not arrest § 87(2)(b) and PO Keegan replied, “If you don’t shut up I’ll put handcuffs on you too.” § 87(2)(b) said she would be quiet, but officers that § 87(2)(b) could not identify grabbed § 87(2)(b) and handcuffed her also. The officers walked § 87(2)(b) down the stairs to a marked van in front, with § 87(2)(b) walked behind her. § 87(2)(b) and § 87(2)(b) were already standing next to the van in handcuffs being patted down.

The officers put § 87(2)(b) in the back of the van and put § 87(2)(b) in next to her. Sgt. Daverin got into the passenger’s seat, and five other cops got into the van which § 87(2)(b) did not recognize (two are identified by the investigation as PO Keegan and PO Samuel Hui). There was a “rookie cop” PO6⁶ who kept saying “This isn’t the procedure.” The officers then took § 87(2)(b) out of the van, removed her handcuffs, and spoke to her while writing something down on a pad. § 87(2)(b) called out for § 87(2)(b) to call her mother and tell her she was getting arrested. The officers then all got into the van and drove to the 75th Precinct stationhouse.⁷

On the way to the 75th Precinct stationhouse, § 87(2)(b) asked to speak to the sergeant of Explorers when they arrived at the stationhouse. Sgt. Daverin replied, “Sgt. Brown? No, you’re stuck with me. Fuck him.” All the officers in the vehicle laughed at his comment. § 87(2)(b) argued with the officers again but PO6 told § 87(2)(b) to not say anything. § 87(2)(b) then started crying.

When they arrived at the 75th Precinct stationhouse, § 87(2)(b) was frisked by a dark-skinned woman in front of the desk, and then walked upstairs where she was handcuffed to a pole. An officer asked for her mother and father’s names. When she said her father was § 87(2)(b) § 87(2)(b) an officer brought up a picture of her father’s mugshot and showed it to her.⁸ The officers shortly uncuffed § 87(2)(b) s hands and walked her downstairs and released her into her mother’s custody. Throughout the incident she had not pushed, touched, or spit at the officers or resisted in any way. The officers who processed her were officers she had not seen on scene.

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) on the incident date. She is a black female who stands at 5’3 with black hair and brown eyes. § 87(2)(b)

CCRB Testimony

On April 16, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 7a-e).

§ 87(2)(g)

§ 87(2)(b) They had been walking to the train when a number of boys attacked § 87(2)(b) and struck him with an umbrella in the face. § 87(2)(b) pushed the attackers away and shouted, “Stop hitting him!” § 87(2)(b) and her friends helped § 87(2)(b) to his feet and walked him up the stairs.

Approximately 30 uniformed officers responded to the scene of the fight on the platform, and § 87(2)(b) called § 87(2)(b) to tell her what was going on. After § 87(2)(b) concluded her phone call, PO3⁹ walked by their group and said, “Shut the fuck up.” Sgt.

⁶ § 87(2)(b) described PO6 as a uniformed male of an unknown race in his 20s with dark brown hair, a slim build, and blue eyes.

⁷ § 87(2)(b) described the other officers in the van and on scene as uniformed white males.

⁸ § 87(2)(g)

⁹ § 87(2)(b) described PO3 as a uniformed white male, tall, skinny, and blond.

Daverin¹⁰, who was wearing white shirt, said, “Go read a book or go do your homework.”

§ 87(2)(b) asked Sgt. Daverin who he thought he was talking to, and argued with him.

§ 87(2)(b) said she had a father, and Sgt. Daverin replied he had a badge which meant he has authority. § 87(2)(b) replied, “Fuck your badge,” and they argued more.

Sgt. Daverin said, “Go read a fucking book.” § 87(2)(b) replied that Sgt. Daverin was not her father, and that not even her father curses at her like that. Sgt. Daverin and § 87(2)(b) told each other both to “Shut the fuck up” multiple times. PO Keegan¹¹ grabbed § 87(2)(b) from behind and put handcuffs on her. § 87(2)(b) became upset and pleaded with the officers to not arrest her sister. § 87(2)(b) stood about five feet away, but approached and grabbed § 87(2)(b) coat. She did not interfere with the arrest or make contact with any officers. PO Keegan said, “If you don’t calm down, we’ll put handcuffs on you too.” § 87(2)(b) said she was calm, but as § 87(2)(b) walked away PO5 put handcuffs on her anyway. § 87(2)(b) was not yelling, but § 87(2)(b) could not see what § 87(2)(b) was doing due to the crowd of people. § 87(2)(b) herself was not struggling with the officers or resisting.

The officers walked § 87(2)(b) downstairs and put her and § 87(2)(b) into a marked van. Presently, the officer removed § 87(2)(b) from the van and took her handcuffs off. Another officer¹² took down her information and her mom’s phone number, and left her with § 87(2)(b). The officers left, but in a few minutes § 87(2)(b) arrived on the scene (as she was coming because § 87(2)(b) had called her before). § 87(2)(b) informed § 87(2)(b) that § 87(2)(b) had been arrested. They drove to the 75th Precinct stationhouse, and as they walked into the lobby they were bringing § 87(2)(b) out from the back to be released.

Witness: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) on the incident date. She is a black female who stands at 5’0 with black hair and brown eyes. § 87(2)(b)

CCRB Testimony

On June 2, 2014, § 87(2)(b) provided a phone statement to the investigation (encl. 8a). On June 5, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 8b-g). § 87(2)(g)

§ 87(2)(g) § 87(2)(b) stated that all the officers that responded were in blue uniforms. By the time that officers began speaking to § 87(2)(b) on the platform, most of the other students had left to go to the other side as the officers had said that the original train was not moving.

After the police finished examining § 87(2)(b) offered to go to the hospital with him. Another group of officers led § 87(2)(b) and § 87(2)(b) downstairs from the platform. § 87(2)(b) continued speaking to § 87(2)(b) and asked him, “§ 87(2)(b) do you want my mother to come meet us at § 87(2)(b) When she said this, PO3¹³ used his body to nudge § 87(2)(b) by the arm, and said either, “Back the fuck off, or “Mind your fucking business.”

¹⁰ § 87(2)(b) described Sgt. Daverin as a uniformed white male, stocky, thick build, a “sergeant,” white shirt.

¹¹ § 87(2)(b) described PO Keegan as a uniformed white male in his late 20s with a tall build.

¹² § 87(2)(b) described these other officers as uniformed white males.

¹³ § 87(2)(b) described this officer as a uniformed white male, standing 6’6, with brown hair.

§ 87(2)(b) replied to PO3, “Don’t talk to me like that. You’re not my fucking father.” PO3 and Sgt. Daverin¹⁴ argued with § 87(2)(b) cursing at her and making fun of her. They teased her, and one of the officers said, “Go do your fucking homework.” Both PO3 and Sgt. Daverin used profanity against § 87(2)(b) and § 87(2)(b) used profanity back. They argued for two or three minutes, and during this time, § 87(2)(b) said, § 87(2)(b) calm down,” and she and § 87(2)(b) tried to verbally de-escalate the situation. The officers never told her to leave the scene, and the confrontation was only verbal and not physical. § 87(2)(b) heard an officer say, “Arrest her,” and PO Keegan¹⁵ walked over from § 87(2)(b) and handcuffed § 87(2)(b). As he did so, § 87(2)(b) became upset and grabbed § 87(2)(b) arm, and said, “I have to go home with my sister.” PO6¹⁶ also walked over and seized § 87(2)(b) by the arms and handcuffed her as well. PO6 told § 87(2)(b) that if she did not be quiet, he would put arrest her too. While PO Keegan and PO6 handcuffed § 87(2)(b) and § 87(2)(b) PO3 and Sgt. Daverin were laughing at the situation like it was a joke.

The officers walked § 87(2)(b) and § 87(2)(b) downstairs in handcuffs, and § 87(2)(b) and § 87(2)(b) followed them. § 87(2)(b) passed the station agent, who had not left her booth the entire incident. Some EMTs were downstairs; they had never gone up to the platform but instead waited below. The officers placed § 87(2)(b) and § 87(2)(b) in the prisoner van, but after a few minutes PO6 took § 87(2)(b) out and called § 87(2)(b) over to speak to her. PO6 said, “Since they arrested her sister, you can take her.” § 87(2)(b) called § 87(2)(b) and told her what happened, and said she should come to the scene. Shortly after this, § 87(2)(b) was taken to the 75th Precinct stationhouse, and § 87(2)(b) was taken downstairs and brought to the EMTs. § 87(2)(b) came to the scene and she, § 87(2)(b) and § 87(2)(b) all went to the 75th Precinct stationhouse to pick up § 87(2)(g).

Witness: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) on the incident date. She is a black female § 87(2)(b)

Phone Statement

On July 1, 2014, § 87(2)(b) provided an unverified phone statement to the CCRB (encl. 9a).

§ 87(2)(g). When the police were speaking to § 87(2)(b) after the fight, § 87(2)(b) and § 87(2)(b) were getting annoyed because the cops were asking § 87(2)(b) questions that had nothing to do with the situation. The police asked § 87(2)(b) “Are you gay?” and “Is your father around in your life?” § 87(2)(b) felt the police were trying to make the situation about something it was not. § 87(2)(b) said aloud that these questions were unnecessary and § 87(2)(b) did not have to answer them.

When § 87(2)(b) made this statement, PO1¹⁷ turned around and said to her, “Mind your fucking business, you dumb little...” He began using profanity at § 87(2)(b) § 87(2)(b) replied, “Who do you think you're talking to? § 87(2)(b) you don't have to answer that.” PO1 walked away cursing, and said, “This is why I can't deal with these kids. I hate these dumb little bitches.” § 87(2)(b) then began yelling at PO1, and using profanity towards him. She said, “You're not my father, who are you talking to.” § 87(2)(b) and PO1 began arguing, and PO1

¹⁴ § 87(2)(b) described Sgt. Daverin as a uniformed white male, standing 6’0, with blond hair.

¹⁵ § 87(2)(b) described PO Keegan as a uniformed male, unknown race, unknown description.

¹⁶ § 87(2)(b) described PO6 as a uniformed male, unknown race, unknown description.

¹⁷ § 87(2)(b) described PO1 as a uniformed white male, standing 6’1, tall, fat, shaved blond hair.

said, "You keep talking to me like that and you're going to get arrested." PO1 then grabbed § 87(2)(b) and put her in handcuffs, and walked her downstairs.

When this occurred, § 87(2)(b) tried to walk over to § 87(2)(b) but § 87(2)(b) and § 87(2)(b) physically prevented her, as this would make the situation worse. § 87(2)(b) started crying. A female officer came over and said, "It's gonna be okay, just come with us." § 87(2)(b) refused, and ran downstairs after § 87(2)(b) § 87(2)(b) and § 87(2)(b) followed. Downstairs on the sidewalk in front of a corner store on Livonia Avenue, § 87(2)(b) was "getting loud" because the cops had put § 87(2)(b) in a police car. § 87(2)(b) and § 87(2)(b) told § 87(2)(b) to be quiet but she was very upset. PO1 and another male officer returned, and put § 87(2)(b) in handcuffs. § 87(2)(b) said that they were taken to the precinct and their mother had to come pick them up. Other than PO1, § 87(2)(b) did not believe any other officer used profanity. § 87(2)(b) did not hear a threat of arrest against § 87(2)(b)

Witness: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) on the incident date. He is a black male who stands at 5'11 and weighs 160 pounds with brown hair and brown eyes. § 87(2)(b)

Phone Statement

On May 16, 2014, § 87(2)(b) provided a phone statement to the CCRB (encl. 9a).

On April 7, 2014, there was a fight on board the train at the New Lots Avenue station. Police officers stopped the whole train and came on to see what was going on, and everyone was asked to go to the platform. § 87(2)(b) was on the platform nearby § 87(2)(b) and her friends. § 87(2)(b) was arguing with the police and "sticking up for her friend" § 87(2)(b) § 87(2)(b) who was the victim of an assault. § 87(2)(b) tried to tell the police what happened, but the police did not care what she had to say, and ignored her. § 87(2)(b) then cursed at the police, causing a commotion. § 87(2)(b) was put under arrest by officers that § 87(2)(b) could not describe. § 87(2)(b) did not hear any police officer curse at her, but he said they were shouting at her. § 87(2)(b) did not actually see what officer arrested her and could not describe any officers or what actions they took.

§ 87(2)(b) was arrested due to the incident, and was taken down from the platform to the street shortly after § 87(2)(b) arrest. § 87(2)(b) knows § 87(2)(b) from school but he did not recall seeing her on scene, and he did not recall the police stopping or handcuffing her. He assumed she was still up on the platform after he was taken down, but he did not himself observe this.

Attempts to contact additional witnesses

§ 87(2)(g)
§ 87(2)(g)
Police documents identified the four perpetrators as § 87(2)(b)
§ 87(2)(b) and § 87(2)(b) § 87(2)(b)
§ 87(2)(b) § 87(2)(b) and § 87(2)(b) fled the scene and § 87(2)(b) and § 87(2)(b) were taken into custody at the train station; § 87(2)(b) believed that they were led down before her own allegations took place.

The phone number and address for § 87(2)(b) and his mother § 87(2)(b) was obtained via the UF-61. Between April 23, 2014, and June 10, 2014, two letters were sent to § 87(2)(b) and seven phone calls were made seeking to speak to him. In a phone call on April 24,

2014, § 87(2)(b) his mother gave permission for the undersigned to speak to § 87(2)(b) and said she would have § 87(2)(b) call back; in a phone call on June 2, 2014, § 87(2)(b) likewise said she would have § 87(2)(b) call or e-mail the investigation that night. To date, § 87(2)(b) has never made contact with the investigator, and contact attempts have been exhausted. § 87(2)(b)'s juvenile arrest was sealed, but § 87(2)(b)'s address found in PO Harper's memo book. A BADS and LexisNexis search were negative for further contact information. Letters were sent to § 87(2)(b)'s address on June 26, 2014, and July 2, 2014, and to date § 87(2)(b) has not responded to these.

Though they ran off and no civilian or officer alleged they were present for the allegations, the undersigned attempted to make contacts with § 87(2)(b) and § 87(2)(b). The phone number and address for § 87(2)(b) and his mother § 87(2)(b) § 87(2)(b) was obtained through BADS, and a phone call was made on June 2, 2014, indicating this number was disconnected; LexisNexis searches for both were negative. Letters were sent to § 87(2)(b) and § 87(2)(b) on May 12, 2014, and May 20, 2014, but neither individual responded.

§ 87(2)(g)

Attempts to obtain video footage

A TARU search indicated that there were possible cameras in the vicinity of the incident (encl. 3d), particularly TARU camera #6-1015 (Livonia Avenue and Ashford Street) and #6-1016 (New Lots Avenue and Cleveland Street). A request was sent to TARU on April 17, 2014, and was returned with negative results on May 21, 2014.

A subpoena for any video footage from the subway platform was mailed to the MTA on April 18, 2014, and was returned with negative results on May 16, 2014, as there are no cameras on the platform of the New Lots Avenue IRT station.

NYPD Statements:

Witness Officers: PO YAPHET HARPER and PO CAMIEL JOHN

- *PO Harper was § 87(2)(b) old on the incident date. He is a black male who stands at 5'10 and weighs 260 pounds with a bald head and brown eyes.*
- *PO John was 32 years old on the incident date. She is a black female who stands at 5'3 and weighs 150 pounds with black hair and brown eyes.*
- *PO Harper and PO John worked from 11:30 a.m. on April 7, 2014, to 1:30 a.m. on April 8, 2014. They were assigned to a 3 train transit foot post and were in uniform.*

Arrest and Complaint Reports

The arrest and complaint reports (encl. 12b-g, l-n, 13b-d) filled out by PO John indicate that at 4:00 p.m an assault took place on board a northbound 3 train at the New Lots Avenue IRT Station. § 87(2)(b) § 87(2)(b) was sitting on the train when multiple perpetrators struck him with their hands, causing laceration to his lip. PO John arrested § 87(2)(b) and § 87(2)(b) (the latter arrested the next day.)

Later, § 87(2)(b) came to the Transit District 33 stationhouse and turned himself in in connection to the fight. PO Harper prepared the arrest report for § 87(2)(b) who walked into the TD 33 stationhouse and stated "I was involved in the fight."

Memo books

PO Harper indicated in his memo book (encl. 13e-h) that at 4:20 p.m. he assisted PO John with an arrest, and at 4:35 p.m. they traveled back to TD 33. At 6:02 p.m. a juvenile report was prepared for defendant § 87(2)(b) and he was released to his mother. At 7:45 p.m. § 87(2)(b) walked into the stationhouse and confessed to being involved in the fight.

PO John indicated in her memo book (encl. 12h-k) that at 3:55 p.m. she observed a fight aboard a northbound train at the New Lots IRT station. PO John called for additional units and “the 75th Precinct showed up at the scene.” Victim § 87(2)(b) § 87(2)(b) stated that they did strike him with their hands; he refused medical care. PO John indicated that she arrested § 87(2)(b) and § 87(2)(b) defendant § 87(2)(b), and transported both individuals to TD33 at 4:25 p.m.; at 7:40 p.m. § 87(2)(b) walked into the stationhouse and stated he was involved in the fight.

CCRB testimony

On June 11, 2014, PO Camiel John was interviewed at the CCRB (encl. 12o-p), and on June 26, 2014, PO Yaphet Harper was interviewed at the CCRB (encl. 13i-j). § 87(2)(g)

At 4:00 p.m. on April 7, 2014, PO Harper and PO John were on routine transit patrol at the New Lots Avenue IRT station. They heard a lot of noise and commotion, and other passengers and MTA personnel on the platform said, “They are fighting on the train.” PO Harper and PO John entered the 3 train to investigate what was going on, and observed a large fight between a group of approximately five or six males. The males were all attacking a young man, identified later as § 87(2)(b) § 87(2)(b). PO Harper told PO John to call a 10-85 for backup, and then PO Harper ordered the train conductor to stop and keep the doors closed. Many officers from the 75th Precinct began to respond to the scene.

Once other officers showed up, PO Harper entered the train and they started “picking people off” to question them. PO Harper and PO John spoke to the victim of the assault, § 87(2)(b) and asked him to identify the people who had beat him up. § 87(2)(b) stated that four males assaulted him and pointed out two perpetrators who were still in the vicinity; the other young men fled. PO John and PO Harper took the two young men into custody, identified as § 87(2)(b) and § 87(2)(b). A sergeant from the 75th Precinct whose name PO Harper could not recall told PO Harper and PO John to take the arrested persons to a prisoner van downstairs, and PO Harper went downstairs.

During the incident, there were a lot of teenagers on the platform. The teens were screaming and cursing, and PO Harper heard a lot of profanity being used by both male and female voices, but he did not know who was saying what, or who the profanity was directed toward. Neither PO Harper nor PO John recalled any officer using profanity. Neither PO Harper nor PO John recognized photographs of § 87(2)(b) or § 87(2)(b) and did not recall seeing them on scene. PO Harper did not see § 87(2)(b) or anyone else get arrested; the only two people he was aware of being taken into custody on scene were § 87(2)(b) and § 87(2)(b). PO John recalled that there were females who were “flaring their arms” on the platform, and another arrest took place, though she could not specifically describe how the arrest occurred. PO John recalled seeing an officer she did not know put a female in handcuffs, but could not recall at one point of the incident this occurred, could not recall if they were using profanity, and could not recall if they were directing language toward the officers or any specific statements they said. § 87(2)(b) and § 87(2)(b) were taken to TD33 by PO Harper and PO John.

Both officers reviewed § 87(2)(b) arrest report but the circumstances of the arrest did not refresh their memories. Neither officer heard any officer say, “Move the fuck out of the

way,” “Read a fucking book,” or “Shut the fuck up.” PO Harper and PO John also reviewed the 250 filled out for § 87(2)(b) particularly the part where it states she was handcuffed for fitting the description as per the victim identification. PO Harper and PO John both stated that it was only males involved in the fight and no females. PO Harper said that § 87(2)(b) told him it was males who assaulted him.

Subject Officer: PO SEAN KEEGAN

- *PO Sean Keegan was § 87(2)(b) old on the incident date. He is a white male who stands at 5'9 and weighs 190 pounds with brown hair and hazel eyes.*
- *PO Keegan worked overtime from 3:00 p.m. to 4:12 a.m. He was assigned solo post #16 and was in uniform.*

Arrest Report

PO Keegan indicated in § 87(2)(b) arrest report (encl. 14b-e) that at 4:20 p.m. at the New Lots Avenue IRT station, § 87(2)(b) refused to disperse after numerous commands to do so, and screamed multiple profanities causing a crowd to gather.

UF-250

PO Keegan prepared a 250 (encl. 14f-g) indicating that at 4:20 p.m. within transit he stopped an § 87(2)(b) black female standing 5'4, and handcuffed her. PO Keegan indicated that she fit the description for a violent crime, and was verbally identified by “victim/witness/officer.” The duration of the stop was listed as ten minutes. Sgt. Daverin verified this 250.

Memo book

PO Keegan indicated in his memo book (encl. 14h-j) that at 3:55 p.m. he responded to a 10-13 at Livonia Avenue and New Lots Avenue. At 4:20 p.m. he indicated “1 female detained for safety reasons / female was acting erratic and violent on train platform near tracks – suspect also Id as assault susp. 1625 susp § 87(2)(b) § 87(2)(b) released. § 87(2)(b) § 87(2)(b) under in regard to § 87(2)(b) scence of 10-13.”

CCRB testimony

On July 23, 2014, PO Sean Keegan was interviewed at the CCRB (encl. 14k-m).

At 3:55 p.m. on April 7, 2014, PO Keegan was at his foot post on the corner of Miller Street and New Lots Avenue when a 10-13 radio run went over at the train station on Livonia Avenue and New Lots Avenue. The radio run indicated that there was a fight in transit and an officer was in trouble. As this is the top priority call, PO Keegan ran down the block to the location.

When PO Keegan reached the train platform on the north side of the station, he observed a scene of chaos. There were approximately a dozen officers already there, from the 75th Precinct and from Transit, and a large number of high-school-aged kids. The fight was not still going on but the kids involved were “getting in each other’s faces” and yelling. The 3 train was stopped and the doors open, and the victim of the assault (identified via the UF-61 as § 87(2)(b) § 87(2)(b) was sitting on a bench. PO Keegan could not recall any of the officers on the scene apart from his supervisor Sgt. Daverin, as he had only been on the job for three months. PO Keegan was doing pre-tour overtime at the time of the incident along with four other officers he did not know, so he was not sure what other Impact officers responded. Sgt. Daverin arrived shortly after PO Keegan.

PO Keegan, Sgt. Daverin, and several other officers spoke to § 87(2)(b) PO Keegan clarified that he did not have any conversation personally with § 87(2)(b) but listened to what was going on. The scene was incredibly loud with the kids shouting and the radios blasting, and

PO Keegan found it difficult to hear details. § 87(2)(b) said he had been jumped by a group of kids, and he identified them to officers. Nearby, two females identified as § 87(2)(b) and § 87(2)(b) were acting erratic and violent. PO Keegan had never seen either of these females before. They were trying to push through the officers towards the suspects who had been detained, and were shouting and cursing. They were upset at the officers' conduct, and were angry that the other individuals were arrested. PO Keegan was shown photographs of both sisters, but he admitted that he did not know which one he interacted with. At this point in the incident, there were more than ten other civilians on the scene.

PO Keegan stated that the two females were taken into custody and handcuffed, one after the other. PO Keegan took the first female into custody, who he believed to be § 87(2)(b) although he was not certain. § 87(2)(b) had identified § 87(2)(b) as one of the perpetrators of the assault; PO Keegan did not hear this identification himself, but one of the sergeants on scene informed him about it and instructed him to handcuff § 87(2)(b). PO Keegan could not recall which sergeant said this. There were other sergeants apart from Sgt. Daverin there on scene. There were no lieutenants or higher on scene, and PO Keegan saw no officer in a white shirt.

PO Keegan then described the events leading up to § 87(2)(b) arrest; he believed § 87(2)(b) was the sister handcuffed second, and he did not know which officer handcuffed her § 87(2)(g). § 87(2)(b) had been pushing officers, using obscene language towards the officers, and not cooperating with orders; PO Keegan could not recall which officers were pushed. PO Keegan could not recall specific statements § 87(2)(b) made, or if she had a contentious argument with Sgt. Daverin or another officer. PO Keegan did not recall § 87(2)(b) saying, "Fuck your badge. You're not my father." PO Keegan did not recall Sgt. Daverin or any other officer saying, "Move the fuck out of my way," "Read a fucking book," "Do your fucking homework," "Shut the fuck up," "I can't stand you bitches," or any other similar language. PO Keegan did not hear Sgt. Daverin or any other officer use any profanity, and he denied using any profanity himself toward any civilian. PO Keegan had no physical contact with either civilian apart from placing handcuffs on, and he stated they did not resist. He did not recall any officer pushing or shoving either civilian out of the way.

When PO Keegan handcuffed § 87(2)(b) he saw § 87(2)(b) pushing past officers trying to reach her, saying, "That's my sister, she didn't do nothing." PO Keegan was not sure if she was trying to interfere with police action. An officer that PO Keegan did not know handcuffed § 87(2)(b). PO Keegan stated that § 87(2)(b) never touched or grabbed onto § 87(2)(b). PO Keegan reiterated that he was not sure which sister was which, so all names are provided as PO Keegan believed them to be. PO Keegan was certain that he handcuffed the first sister chronologically.

When asked about any threat of arrest, PO Keegan said that he gave the sisters lawful orders, and repeatedly said, "You all need to step back." PO Keegan might have said that they could be arrested if they did not step back, but he said this was not a threat but a warning.

PO Keegan was shown a copy of the UF-250 he filled out for the stop of § 87(2)(b). He reiterated that § 87(2)(b) was stopped on suspicion of committing an assault, which later turned out to be mistaken. After PO Keegan walked § 87(2)(b) downstairs, a sergeant radioed down saying that the identification was mistaken, and only boys were involved in the assault. PO Keegan did not know who this sergeant was. PO Keegan then released § 87(2)(b) as she was calm and compliant. PO Keegan did not release § 87(2)(b) to any adult or other person, but a few of § 87(2)(b)'s friends had followed them down and § 87(2)(b) went to them after she was uncuffed. PO Keegan said that at no point was § 87(2)(b) considered under arrest. The UF-250 indicated that § 87(2)(b) was frisked for suspicion of

being involved in a violent crime. PO Keegan could not recall if he was the one who actually conducted the frisk, and he had no independent recollection of this frisk taking place. PO Keegan indicated that there was no other reason behind the frisk apart from being identified as the possible suspect to a violent crime. PO Keegan could not recall if the sister he walked down was the one who was released or the one who was arrested. PO Keegan did not know if he or another officer uncuffed § 87(2)(b).

Though § 87(2)(b) was released, § 87(2)(b) was “continually tumultuous” and acting belligerent towards the officers. PO Keegan stated that § 87(2)(b) was acting hysterical and aggressive. When asked how § 87(2)(b) was acting aggressive, PO Keegan described her as acting “passive-aggressive.” § 87(2)(b) was placed in the van, and PO Keegan and Sgt. Daverin rode in the van with a number of other officers that PO Keegan could not identify. PO Keegan could not recall if § 87(2)(b) and Sgt. Daverin had any argument, and could not recall if Sgt. Daverin said, “Fuck Sgt. Brown, you’re stuck with me,” or any similar statement. PO Keegan did not know who Sgt. Brown was. PO Keegan did not recall if Sgt. Daverin used any profanity toward any civilian, and PO Keegan also denied using any profanity. § 87(2)(b) was brought to the 75th Precinct stationhouse, and PO Keegan notified the juvenile desk. § 87(2)(b) was released to her mother at 4:55 p.m. from the 75th Precinct stationhouse.

PO Keegan again said that he had no recollection of § 87(2)(b) being frisked, though it is indicated on the UF-250. PO Keegan said that § 87(2)(b) was never under arrest, and “the only reason we frisk is before we put them in the van for transport, to make sure they don’t have any weapons.” PO Keegan did not recall § 87(2)(b) getting frisked at any point. PO Keegan never spoke to the transit officer who had originally called the 10-13. PO Keegan could not describe or recall any other officers on scene.

Subject Officer: SGT HENRY DAVERIN

- Sgt. Daverin was § 87(2)(b) old on the incident date. He is a white male who stands at 5’10 and weighs 240 pounds with brown hair and green eyes.
- Sgt. Daverin was Impact Sergeant on the incident date, working 7:15 p.m. to 4:12 a.m., though doing overtime at the point of the incident. He was in uniform in a marked car, and his operator was PO Samuel Hui.

Memo book

Sgt. Daverin indicated in his memo book (encl. 15b-d) that there was one under by post #6 (identified as PO Keegan) at 4:24 pm.

CCRB testimony

On August 13, 2014, Sgt. Henry Daverin was interviewed at the CCRB (encl. 15e-f).

On April 7, 2014, Sgt. Daverin and PO Hui were patrolling in the confines of the 75th Precinct when they heard a 10-13 go over the air for officers seeking assistance at the New Lots Avenue IRT station. Sgt. Daverin did not recall the specific details of the 10-13, and stated it would not matter, as he would get to the location forthwith regardless as an officer was in danger.

Upon arriving at the location and walking up the stairs to the train platform, Sgt. Daverin observed a large crowd of 15-20 youths behaving in a violent and tumultuous manner. A number of officers had already responded, including PO Keegan from the 75th Precinct Impact. Sgt. Daverin did not speak to any officer previously on scene to learn information about what happened. Sgt. Daverin did not have any recollection of speaking to a civilian or to PO John and PO Harper. Sgt. Daverin was shown the UF-61 associated with this incident prepared by PO John, indicating that § 87(2)(b) § 87(2)(b) was assaulted by several males. Sgt. Daverin had no

recollection of speaking with § 87(2)(b) or any civilian who was the victim of an assault or who had injuries on his face.

Sgt. Daverin immediately took police action by directing two individuals to be handcuffed – § 87(2)(b) and § 87(2)(b) who were sisters. PO Keegan handcuffed one, but Sgt. Daverin could not recall which. Sgt. Daverin did not recognize photographs of the two. § 87(2)(b) and § 87(2)(b) had been acting erratically and screaming profanity. § 87(2)(b) in particular was punching and shoving officers and civilians, which was creating a hazardous situation on the train platform. Sgt. Daverin could not recall which officers she was punching. Sgt. Daverin could not recall what exactly the girls were saying. Sgt. Daverin had no verbal or physical interaction with either girl before ordering them to be handcuffed. There were some other civilian on scene attempting to “hold § 87(2)(b) back” but § 87(2)(b) continued to act disorderly.

Sgt. Daverin denied that he or any officer pushed § 87(2)(b) and said, “Get the fuck out of my way,” before she was handcuffed. Sgt. Daverin denied that he or any other officer said, “Shut the fuck up,” “Get the fuck out,” or used “fuck” in any way toward § 87(2)(b). He also denied that § 87(2)(b) told any officer, “Fuck your badge. You’re not my father.” § 87(2)(b) was arrested for § 87(2)(b) and brought downstairs.

In regards to § 87(2)(b) a male civilian pointed at § 87(2)(b) and spontaneously said that she was involved in a robbery. In response to this, Sgt. Daverin ordered § 87(2)(b) to be handcuffed. Sgt. Daverin did not know who this civilian was, and did not know which officer handcuffed § 87(2)(b). Sgt. Daverin did not know if this civilian was the victim of the assault, and did not see injuries on the civilian. Some other individuals involved in the fight had been arrested, but Sgt. Daverin had no interaction with them. Sgt. Daverin denied that any officer threatened to arrest § 87(2)(b) but stated that if she was involved in a robbery, it would be a statement of fact and not a threat. Regardless, Sgt. Daverin described the scene as loud and chaotic so he could not recall verbatim specific language by officers or civilians.

Both § 87(2)(b) and § 87(2)(b) were brought downstairs to the street below by Impact officers of the 75th Precinct. Sgt. Daverin conducted further investigation, and determined that § 87(2)(b) was not actually involved in any robbery. Sgt. Daverin personally spoke to some witnesses on scene – though he could not recall who and did not document their names – who said that § 87(2)(b) had no involvement in the incident. After learning this fact, Sgt. Daverin instructed the officers to uncuff § 87(2)(b).

Sgt. Daverin could not recall exactly how § 87(2)(b) was transported to the stationhouse, but he said he might have transported her back in a van. Sgt. Daverin could not recall any conversation, and did not believe he ever spoke to § 87(2)(b). Sgt. Daverin denied that they ever discussed Sgt. Brown, and denied that he said, “Fuck him, you’re stuck with me.” Sgt. Daverin denied that he used any profanity toward any civilian, and denied that any officer did so.

Sgt. Daverin was shown the arrest report prepared by PO Keegan and verified by him, which indicated that § 87(2)(b) was given numerous commands to disperse. Sgt. Daverin did not recall which officer if any made those commands, and denied that he had any interaction with her. Sgt. Daverin was shown the UF-250 prepared by PO Keegan and verified by him, which indicated that § 87(2)(b) was handcuffed and frisked on the basis of suspicion of involvement in a violent crime. Sgt. Daverin at first did not believe that § 87(2)(b) was frisked, but then said that it would have been a female officer and not PO Keegan who frisked her. Sgt. Daverin could not recall any female officers on scene and had no independent recollection of § 87(2)(b) being frisked.

Witness Officer: PO SAMUEL HUI

- *PO Hui was § 87(2)(b) old on the incident date. He is an Asian male who stands at 6'2 and weighs 240 pounds with black hair and brown eyes.*
- *PO Hui was operator for Sgt. Daverin on the incident date, and worked from 3:00 p.m. to 7:25 p.m. He was in uniform in a marked car.*

Memo book

PO Hui indicated in his memo book (encl. 16a) that at 4:00 p.m. he responded to a 10-13 at the New Lots Avenue IRT station. At 4:10 p.m. he indicated 10-2, and at 4:20 p.m. he indicated he changed van.

CCRB testimony

On August 29, 2014, PO Samuel Hui was interviewed at the CCRB (encl. 16b-c).

At 4:00 p.m. on April 7, 2014, PO Hui responded to a 10-13 at the New Lots Avenue IRT elevated train station. PO Hui and Sgt. Daverin scaled the stairs to the platform and observed a large crowd of youths yelling and shouting, and numerous officers everywhere. PO Hui did not observe anyone fighting. PO Hui told the crowd to "Keep it moving," as they dispersed, but he could not recall if the crowd was compliant with these orders. Right after PO Hui got to the platform, another officer "grabbed" PO Hui and told him to come downstairs. PO Hui ran downstairs with this officer; PO Hui did not know who this officer was, or what his command was. Downstairs, PO Hui did not take any police action, and he said that the incident ended.

The next time that PO Hui saw Sgt. Daverin was when he came downstairs. They had no discussion about anything that happened on scene. PO Hui was not sure if Sgt. Daverin was in custody of any defendant. PO Hui originally did not recall anything further, but then recalled that he transported a female defendant back to the 75th Precinct stationhouse in van #5393 (identified by the investigation as § 87(2)(b)). PO Hui did not recall a photo of § 87(2)(b). PO Hui recalled nothing about her arrest and transportation. PO Hui did not recall § 87(2)(b) demeanor or any statements she was making. PO Hui could not describe any police action that Sgt. Daverin or PO Keegan took on scene. PO Hui never heard any civilian curse or argue with Sgt. Daverin, or say "Fuck your badge and authority." PO Hui never heard Sgt. Daverin or any other officer say, "Move the fuck away," "Shut the fuck up," "Read a fucking book," or threaten anyone with arrest. In the prisoner van, Sgt. Daverin never said, "Fuck Sgt. Brown. You're stuck with me." PO Hui never heard a request to see Sgt. Brown.

Other than § 87(2)(b) PO Hui did not observe anyone else in handcuffs or arrested. PO Hui did not observe any officer frisking any civilian. PO Hui did not speak to the original transit officers who had called the 10-85 to see what the circumstances of the incident were. PO Hui was shown a copy of the UF-250 for § 87(2)(b) and this did not refresh his memory of any police activity on scene.

Witness Officer: PO ERIK MORENO

- *PO Moreno was § 87(2)(b) old on the incident date. He is a Hispanic male who stands at 6'1 and weighs 198 pounds with black hair and brown eyes.*
- *PO Moreno was assigned to 75th Precinct Conditions on the incident date and worked from 9:30 a.m. to 6:05 p.m. He was partnered with PO John Diaz and was in uniform in a marked car.*

Memo book

PO Moreno indicated in his memo book (encl. 17a-b) that he responded to a 10-85 by transit portable at New Lots Avenue and Livonia Avenue on the 3, 4 line. At 4:15 p.m. PO Moreno indicated that transit portable had two under. PO Moreno issued a c-summons for § 87(2)(b) at 4:20 p.m. about a block from the station.

CCRB testimony

On August 28, 2014, PO Erik Moreno was interviewed at the CCRB (encl. 17c-d).

At 4:00 p.m. on April 7, 2014, PO Moreno and PO Diaz responded to a radio run for a 10-85 at the New Lots Avenue IRT train elevator platform. The transit portable was requesting more units to the 3/4 line, but PO Moreno did not know any more details. When they arrived, a big group of civilians was leaving the platform, and it seemed that it was the end of the incident. On the platform, there was a large and raucous crowd and numerous uniformed officers; the crowd was cooperative and leaving the platform to go back to the street. PO Moreno did not speak to any officers on scene to find out what had happened. PO Moreno did not see any civilians arrested, or anyone in handcuffs on the platform. PO Moreno did not recognize pictures of § 87(2)(b) or § 87(2)(b). A “no further” came over on the dispatch, and so PO Moreno and PO Diaz resumed patrol and wrote an open container summons a few blocks away. As they left, PO Moreno did not see anyone in handcuffs, or any prisoner van. PO Moreno did not hear any argument between officers and civilians, and did not hear any officer use any profanity or threaten arrest. PO Moreno did not see any supervisors on scene, and did not have any conversation with either any civilian or officer on scene (apart from PO Diaz). PO Moreno wrote “2 under” in his memo book because he heard over the radio that two had been arrested. PO Moreno did not take any police action on scene.

Officers Not Interviewed

§ 87(2)(g)

Sgt. David Velez from Transit Task Force verified the arrests made by PO Harper and PO John, but the radio run CD and his memo book reflect that at the time of the incident, he was stuck in transit delays at the Utica Avenue stop some distance away. § 87(2)(g)

When the 10-13 was called, several units from the 73rd Precinct indicated that they were going to respond to the call – particularly, 73 Conditions, 73 A, and 73rd Precinct sergeant. The 10-13 was called off after approximately three minutes. These officers were identified as Sgt. Frank Pandullo, PO Joseph Piscatella, PO Elliott Huang, PO Justin Freese, PO Hernan Mendoza, and PO John Broderick. All their memo books show them in various locations at the time of the incident, and none of which show them having responded to this incident. § 87(2)(g)

NYPD Documents

75th Precinct Operation Impact Foot Post List

The Impact foot post list (encl. 18a-i) and map (encl. 3c) indicates that the officers assigned to foot posts in the immediate vicinity of the incident location were:

- PO Elvisa Beksetevic Van Siclen St. & New Lots Ave.
- PO Sean Keegan New Lots Ave. btwn Vermont & Hendrix Sts.
- PO Yahaira Llano Wyona St. btwn Livonia & New Lots Aves.
- PO Tyler Marshall New Lots Ave. btwn Hendrix & Ashford Sts.
- PO Anthony Mastrokyriakos Brandford St. btwn Livonia & New Lots Sts.
- PO Ryan Neff Livonai Ave. btwn Vermont & Hendrix Sts.
- PO Thomas Peters Livonia Ave. btwn Hendrix & Ashford Sts.
- PO Patrick Rogin Van Siclen Ave. btwn Livonia & New Lots Aves.

Sgt. Henry Daverin, Sgt. Hameed Armani, and Sgt. Kevon Sample were Impact supervisors. Memo books indicate that PO Marshall and PO Peters were together on a call at § 87(2)(b), and PO Rogin began his shift at 7:30 p.m.

75th Precinct Tour 2 and Tour 3 Roll Call

The roll calls for both tours (encl. 19a-ab) indicate that for patrol sectors, Tour 2 was off-shift at 3:40 p.m. Sector E-F, which was the closest sector to the incident location, was assigned to PO Jeremy Bloom and PO Kevin Murtha. Their memo books indicate that they responded to a vehicle accident at § 87(2)(b) at 3:55 p.m., and then an EDP at § 87(2)(b).

The roll call indicates that the following officers were assigned to the Conditions team on the date of the incident:

- PO Erik Moreno partnered with PO John Diaz
- PO Kelly Quinn partnered with PO Daniel Trione
- PO Craig Smith partnered with PO Charles Schwartz
- Sgt. Timothy Cecchini, no partner

Memo books indicate that PO Moreno and PO Diaz were on the scene of this incident. Sgt. Cecchini was in the stationhouse verifying an arrest with PO Smith and PO Schley at the time of the incident. PO Quinn and PO Trione had no relevant memo book entries.

75th Precinct Command Log

This document indicates (encl. 20a-c) that PO Keegan logged § 87(2)(b) in at 4:30 p.m. and she was released to her mother at 4:47 p.m.

Transit Kings Task Force Roll Call

This document indicates (encl. 22a-i) that PO John and PO Harper were together patrolling Utica Avenue to New Lots Avenue on the 3 train line. Sgt. David Velez was their immediate supervisor.

73rd Precinct Tour 3 Roll Call

The roll call (encl. 23a-j) indicates that Tour 3 had just begun when the incident at the New Lots Avenue IRT station began.

Sgt. Frank Pandullo was patrol supervisor from 2:50 p.m. onwards, and at the time of the incident he had just left the stationhouse and begun patrol with PO Joseph Piscatella as his operator.

Sector 73 A was assigned to PO Elliott Huang and PO Justin Freese, who began their tour at 3:00 p.m. At the time of the incident, they had both responded to a radio run at § 87(2)(b), where they arrived at 4:05 p.m.

73 Conditions was assigned to PO John Broderick and PO Hernan Mendoza, and they had just begun patrol. They responded to a call at § 87(2)(b) at 4:25 p.m., the same time as § 87(2)(b) was being arrested.

UF-250 log

Computerized and handwritten stop and frisk records indicate (encl. 24a-b) that PO Keegan prepared a UF-250 for assault. Some other transit, housing, and 75th Precinct commands made stops on that date but none were relevant to this incident. PO Keegan was the only Impact officer to prepare a UF-250 on this date.

SPRINT Records

At 4:00 p.m. Transit Task Force indicated (encl. 25a-r) that there was a fight about the train at the New Lots Avenue station. Dispatch put a 10-13 over the radio. By 4:03 p.m. PO Harper indicated that everything was under control, and additional units were needed for a large fight. At 4:16 p.m. two under by transit was indicated, and at 4:18 p.m. West Impact Sergeant indicated that all members of service were accounted for with no injuries. This Impact Sergeant indicated a female was under at 4:24 p.m. The following units responded to this scene (though not all arrived before the 10-13 was called off):

- | | | |
|--------------------------|----------------------|------------------------|
| • District 32 Task Force | PO Harper, PO John | (Called initial 10-13) |
| • 75 Sergeant | Sgt. Daverin, PO Hui | |
| • 75 Conditions | PO Moreno, PO Diaz | |

Aviation, ESU, Highway, and 73rd Precinct units responded to the radio run, but records show that the 10-13 was called off before they arrived on scene.

§ 87(2)(b), § 87(2)(g)

Radio Run Recording

The radio run CD for transit (encl. 26a, IA #132 in digital case file) indicated that at 3:58 p.m., PO Harper put over the radio, “Can I get a...[indecipherable]...New Lots IRT?” Central repeatedly asked him to clarify, but PO Harper did not respond to these messages. Due to PO Harper’s lack of response, Central put over a 10-13 on the radio and requested all available units respond to an unknown condition at that location. Within three minutes, PO Harper replied back and confirmed there was a fight on the platform, and everything was under control. At 4:02 p.m. the transit sergeant indicated he was stuck in a delay at Utica Avenue, but in response PO Harper said no further units were needed at the location. Central confirmed the no further at 4:03 p.m.

The radio run CD for the 73rd and 75th Precincts indicated that Central put over a 10-13 in transit at 4:00 p.m. in response to PO Harper’s radio transmission. 73A (identified as PO Huang and PO Freese), West Impact Sergeant (identified as Sgt. Daverin), and 75 Conditions (identified as PO Moreno and PO Diaz) were among the first units to radio that they were responding. By

4:02 p.m. Central indicated no further units necessary to the location. Sgt. Daverin indicated he was on scene at 4:02 p.m., the first non-transit officer to do so.

§ 87(2)(a) Fam. Ct. Act § 381.3

Status of Civil Proceedings

- As of August 2014, neither § 87(2)(b) nor § 87(2)(b) nor their mother § 87(2)(b) has filed a notice of claim with the Office of the Comptroller in regards to this incident (encl. 27a).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first complaint filed by § 87(2)(b) and the first complaint involving § 87(2)(b) and § 87(2)(b) (encl. 2c-d).

Officer CCRB History

- PO Keegan has been a member of service for one year and this is the first complaint filed against him (encl. 2a).
- Sgt. Daverin has been a member of service for six years and he has no substantiated allegations filed against him (encl. 2b).

Conclusion

Identification of Subject Officers

§ 87(2)(b) and § 87(2)(b) alleged that two officers spoke discourteously to § 87(2)(b) in the minutes leading up to her arrest. § 87(2)(g) the first officer who spoke discourteously was a uniformed white male in his thirties, standing 6'1, with blond, stringy hair. This officer allegedly said either, "Move the fuck out of my way," "Mind your fucking business," or words to similar effect, leading to the argument that resulted in § 87(2)(b) arrest.

§ 87(2)(g)

Radio run records and memo books indicate that no patrol sectors from the 73rd or 75th Precinct, or any additional transit units, responded to the scene at the time this allegation was said to have occurred, § 87(2)(g)

Seven Impact officers, not counting PO Keegan, were assigned to foot posts within a ten-minute walking radius of the incident location as per Google Maps. § 87(2)(g)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The second officer to speak discourteously was generally described as a uniformed white male, stocky or thick build, whom both § 87(2)(b) and § 87(2)(b) referred to as the “sergeant.” This officer was also the one who ordered § 87(2)(b) and § 87(2)(b) to be handcuffed. § 87(2)(b) and § 87(2)(b) believed this officer to be wearing a white shirt; however, the SPRINT and officer testimony was consistent in that the highest ranking officer on scene was a sergeant, and there was no lieutenant on scene. The other two Impact sergeants who were on duty – Sgt. Armani and Sgt. Sample – were an Asian male and a black male respectively, and not fitting the description. PO Keegan testified that it was Sgt. Daverin who ordered § 87(2)(b) and § 87(2)(b) to be placed in handcuffs. Sgt. Daverin admitted that he did this action.

§ 87(2)(g)
As discussed above, it is undisputed that Sgt. Daverin ordered PO Keegan and an unidentified other officer to take § 87(2)(b) and § 87(2)(b) into custody. PO Keegan prepared a UF-250 for the stop of § 87(2)(b) which was verified by Sgt. Daverin. § 87(2)(g)
§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) testified that as PO Keegan handcuffed § 87(2)(b), § 87(2)(b) grabbed her to seemingly prevent her apprehension. PO Keegan then stated to § 87(2)(b) words to the effect, “If you don’t shut up I’ll put handcuffs on you too.” After this, another officer apprehended § 87(2)(b) § 87(2)(g)
[REDACTED]

Investigative Findings and Recommendations

Allegations not pleaded

§ 87(2)(b) alleged in her phone statement that unidentified officers asked § 87(2)(b) if he was “gay” and asked if his father was involved in his life. § 87(2)(b) also alleged that the officer who cursed at § 87(2)(b) said that he “hates little bitches.” § 87(2)(b) did not make such an allegation, and no civilian recalled such language being used by officers toward § 87(2)(b). § 87(2)(b) did not cooperate with the investigation, and did not allege this language. § 87(2)(g)
[REDACTED]

The UF-250 prepared by PO Keegan for the stop of § 87(2)(b) indicates that she was frisked. Neither § 87(2)(b) nor any other civilian made this allegation, and no officer had any independent recollection of this frisk. § 87(2)(g)

Allegation A—Discourtesy: An officer spoke discourteously to § 87(2)(b)

Civilian testimony is generally consistent that this incident began when a uniformed officer nudged § 87(2)(b) and said in sum and substance, “Move the fuck out of my way.” § 87(2)(g)

Allegation B—Discourtesy: Sgt. Henry Daverin spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both alleged that Sgt. Daverin said, “Shut the fuck up,” to § 87(2)(b) in the context of an argument in which both § 87(2)(b) and Sgt. Daverin were using numerous profanities towards the other. Civilian testimony generally alleged that Sgt. Daverin said, “Do your fucking homework” or “Read a fucking book,” derisively referred to § 87(2)(b) as a “little girl,” and § 87(2)(b) alleged that during transportation to the 75th Precinct, Sgt. Daverin said, “Sgt. Brown? Fuck him.”

§ 87(2)(b) gave a statement three months after the incident in which she alleged that an officer did use profanity, and corroborated much of the dialogue stated by the other civilians, but seemed to conflate the roles of three or four officers together into a single officer, against which she made all her allegations.

§ 87(2)(b) denied that any officer used profanity, but also did not observe § 87(2)(b) being arrested, which occurred immediately after this alleged profanity was uttered. § 87(2)(g)

All officer testimony either did not recall or specifically denied that Sgt. Daverin made all these statements.

§ 87(2)(g)

Allegation C—Abuse of Authority: Sgt. Henry Daverin authorized the stop of

§ 87(2)(b)

It is undisputed that after § 87(2)(b) was arrested, § 87(2)(b) was also handcuffed and led downstairs to the prisoner van before being uncuffed and released to § 87(2)(b)'s custody. Sgt. Daverin admitted he gave the order for an officer to handcuff § 87(2)(b) though neither he nor any other officer on scene could not recall which officer did so.

Case law has found in *People v. Bennet* 37 A.D.3d 483 (2nd Dept. 2007) (encl. 1p) that an officer can lawfully conduct a stop of a suspect in a reported crime if the individual matches the general description of the perpetrator, is within close proximity to the location of the crime, and a short period of time has elapsed.

Sgt. Daverin testified that a male civilian pointed at § 87(2)(b) and spontaneously said she was involved in a robbery. In response, Sgt. Daverin ordered her to be handcuffed. Sgt. Daverin did not know who this civilian was, or if he was the victim of the alleged robbery. Sgt. Daverin investigated further by speaking to some witnesses – whose names he did not document and could not recall – who stated that § 87(2)(b) was not involved in the incident. After finding this information out, Sgt. Daverin ordered § 87(2)(b) to be released.

PO Keegan was the officer who prepared the UF-250 for § 87(2)(b) though he was not the officer who took her into physical custody. PO Keegan indicated that § 87(2)(b) was handcuffed and frisked due to fitting the description for a violent crime, and she was identified as a suspect by “victim/witness/officer.” PO Keegan did not know which officer physically handcuffed § 87(2)(b) but believed she was stopped in connection to the assault on § 87(2)(b). As PO Keegan and this unidentified officer walked § 87(2)(b) and § 87(2)(b) downstairs, an unidentified sergeant radioed to them saying only males were involved, and § 87(2)(b) was not a suspect. § 87(2)(b) was then released to the custody of her friends. PO Keegan described § 87(2)(b) as calm and compliant, and said there was no other reason for the stop.

PO Harper and PO John who were the first responding officers to the fight and who interviewed § 87(2)(b) in regards consistently testified that § 87(2)(b) accused four teenage males of assaulting him, and never stated that any females were involved in the fight. According to civilian testimony, the only males on the platform at the time of the police response would be the victim and apprehended perpetrators of the assault — § 87(2)(b) and § 87(2)(b). Some of the testimony holds that § 87(2)(b) and § 87(2)(b) were taken downstairs in handcuffs before § 87(2)(b) and § 87(2)(b) were apprehended.

§ 87(2)(g)

§ 87(2)(g)

Allegation D—Abuse of Authority: PO Sean Keegan threatened to arrest § 87(2)(b)

§ 87(2)(b)

Civilian testimony was generally consistent that after § 87(2)(b) was arrested, § 87(2)(b) verbally pleaded with the officers to not arrest her, and may have grabbed onto § 87(2)(b) coat. In response, PO Keegan made a statement to the effect, “If you don’t shut up I’ll put handcuffs on you too.” It is undisputed by all testimony that these comments took place amidst a loud and boisterous crowd, with numerous people screaming and using profanity, and multiple arrests made in the wake of a fight.

§ 87(2)(g)

The case of *NYPD v. Grandstaff* OATH Index No. 79085/03 (2003) (encl. 1a-o) finds that a threat of arrest made for the purpose of calming a potentially aggressive situation does not constitute misconduct.

§ 87(2)(g)

PO Keegan said that he might have issued a threat of arrest, but characterized this as a warning rather than a threat. PO Keegan was giving the sisters lawful orders such as “You need to step back,” and he may have said they could be arrested if they did not step back.

§ 87(2)(g)

[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date